

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

COMMONWEALTH SCIENTIFIC AND)	
INDUSTRIAL RESEARCH)	
ORGANISATION)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 2-05 CV-53 LED
)	
BUFFALO TECHNOLOGY (USA), INC., a)	
Delaware corporation, and BUFFALO INC., a)	
Japanese corporation)	
)	
Defendants.)	
)	

ANSWER TO COMPLAINT

Defendants Buffalo Technology (USA), Inc. and Buffalo, Inc. (together “Buffalo” or “Defendants”) for their answer to the Complaint of Plaintiff Commonwealth Scientific and Industrial Research Organisation (“CSIRO” or “Plaintiff”) allege as follows:

THE PARTIES

1. Buffalo is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 of the Complaint, and on that basis, denies them.
2. Buffalo admits the allegations of paragraph 2 of the Complaint.
3. Buffalo admits that Buffalo, Inc. is organized under the laws of Japan, with its principal place of business in Nagoya, Japan, and that Buffalo, Inc. and Buffalo Technology (USA), Inc. are owned by the same corporate entity. Buffalo further admits that Buffalo has sold allegedly infringing products in the Eastern District of Texas. Except as expressly admitted, Buffalo denies each of the allegations in paragraph 3 of the Complaint.

JURISDICTION AND VENUE

4. Buffalo admits that Plaintiff purports to assert a claim for patent infringement under 35 USC §§ 1, *et seq.* and that the Court has jurisdiction over such claim under Title 28, United States Code, §§1331 and 1338(a). Buffalo admits that some of its allegedly infringing products have been sold in this district and that, consequently, venue is proper in this district. Except as expressly admitted, Buffalo denies each of the allegations in paragraph 4 of the Complaint.

INFRINGEMENT OF U.S. PATENT 5,487,069

5. Buffalo admits that Exhibit “A” is a true and correct copy of U.S. Patent No. 5,487,069 (the “’069 Patent”), entitled “Wireless LAN.” Buffalo is without knowledge or information sufficient to form a belief as to the truth of the allegation that CSIRO holds all rights and interest in the ’069 Patent, and on that basis, denies that allegation. Except as expressly admitted, Buffalo denies each of the allegations in paragraph 5 of the Complaint.

6. Buffalo denies each allegation of paragraph 6 of the Complaint.

7. Buffalo denies each allegation of paragraph 7 of the Complaint.

8. Buffalo denies each allegation of paragraph 8 of the Complaint.

AFFIRMATIVE DEFENSES

By way of affirmative defenses, Buffalo pleads as follows:

9. Plaintiff fails to state a claim upon which relief can be granted.

10. Buffalo has not infringed, either directly, contributorily, or by inducement, the claims of the patent in suit either literally or under the doctrine of equivalents.

11. U.S. Patent No. 5,487,069 is invalid and/or unenforceable for failure to comply with one or more provisions of Title 35 of the United States Code, including but not limited to 35 U.S.C. §§ 102, 103 and 112.

12. Plaintiff is estopped from asserting infringement by reason of its acts, representations and/or omissions during prosecution before the United States Patent and Trademark Office on the application which led to the issuance of the U.S. Patent No. 5,487,069.

PRAYER

For the foregoing reasons, Defendants Buffalo Technology (USA), Inc. and Buffalo, Inc., pray for judgment as follows:

- A. That Plaintiff Commonwealth Scientific and Industrial Research Organisation take nothing by its Complaint and that the Complaint be dismissed with prejudice;
- B. That the Court declare the case an exceptional case;
- C. Awarding Defendants their reasonable attorneys' fees;
- D. Awarding Defendants their costs of suit (including expert fees); and
- E. For such other, further and different relief as the Court may deem just and proper.

Dated: April 11, 2005

By: /s/ Michael E. Jones

Richard J. Coddington (*pro hac vice* app. pending)
AKIN GUMP STRAUSS HAUER & FELD LLP
2029 Century Park East, Suite 2400
Los Angeles, California 90067
Telephone: 310.229.1045
Facsimile: 310.229.1001
E-mail: rcoddington@akingump.com

Michael E. Jones
State Bar No. 10929400
POTTER MINTON A PROFESSIONAL CORPORATION
110 North College, Suite 500
Tyler, Texas 75702
Telephone: 903.597.8311
Facsimile: 903.593.0846
E-mail: mikejones@potterminton.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record in this matter are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 11th day of April, 2005.

/s/ Michael E. Jones